

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DEMETRIUS JOHNSON,

Plaintiff,

v.

REYNALDO GUEVARA, the ESTATE of
ERNEST HALVERSON, DARRYL DALEY,
WILLIAM ERICKSON, JOHN HEALY, and
the CITY OF CHICAGO

Defendants.

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) Case No. 20 cv 4156

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) Judge Sara L. Ellis

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) Magistrate Judge Heather K. McShain

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JURY TRIAL DEMANDED

**DEFENDANTS' OPPOSED MOTION TO EXTEND REMAINING SUMMARY
JUDGMENT, *DAUBERT* AND MOTION TO STRIKE BRIEFING SCHEDULES**

Defendants, Reynaldo Guevara, Darryl Daley, Geri Lynn Yanow, as special representative for William Erickson (deceased), Ernest Halvorsen (deceased), John Healy (deceased), and the City of Chicago, by their undersigned counsel, respectfully move for an order extending the remaining summary judgment, *Daubert* and motion to strike briefing schedules, and state in support:

1. On April 12, 2024, Defendants Halvorsen, Daley, Erickson and Healy moved for summary judgment on all of Plaintiff's claims. (Dkt. 311.) Similarly, Defendant City moved for summary judgment on Plaintiff's *Monell* claim (Dkt. 317), and filed two *Daubert* motions. (Dkt. 326, 327.) Defendant Guevara also moved for partial summary judgment. (Dkt. 309.)
2. All Defendants except Guevara sought leave to file their respective memoranda in support of summary judgment in excess of fifteen pages (15) pages, (Dkt. 312, 318), which the Court granted. (Dkt. 322.)

3. In accordance with this Court's summary judgment procedures, the Parties submitted Joint Statements of Undisputed Material Facts, one which relates to the underlying investigation (Dkt. 313), and the other which relates to Plaintiff's *Monell* claim. (Dkt. 320.) The Joint Statement of Undisputed Facts related to the underlying investigation totaled 139 paragraphs (Dkt. 313), and the Joint Statement of Undisputed Facts related to Plaintiff's *Monell* claim totaled 296 paragraphs. (Dkt. 320.)

4. On May 8, 2024, Plaintiff filed an unopposed motion for extension of time requesting a four-week extension to June 10, 2024 to file his responsive briefs to Defendants' motions for summary judgment and *Daubert* motions, (Dkt. 331), which the Court subsequently granted. (Dkt. 333.) The Court revised the summary judgment and *Daubert* briefing schedule as follows: Plaintiff's responses are due by 6/10/2024 and Defendants' replies are due by 7/19/2024. (Dkt. 333.)

5. Thereafter, on June 11, 2024, Plaintiff filed a single, consolidated response in opposition to Defendants' motions for summary judgment totaling 168 pages, and a Statement of Additional Disputed Facts which includes 475 paragraphs and 66 sub-paragraphs, amounting to 541 paragraphs in total. (Dkt. 340.) Approximately 283 of the paragraphs are directed towards the Individual Defendant Officers; the remaining 258 paragraphs (inclusive of sub-paragraphs) are directed towards the City. (Dkt. 340.)

6. In support of his memorandum in opposition to Defendants' motions for summary judgment, Plaintiff filed 294 exhibits totaling approximately 20,208 pages. (Dkt. 339, 339-1—339-20.)

7. Plaintiff's responses to Defendant City's *Daubert* motions are 40 pages for the Tiderington response (Dkt. 338) and 46 pages for the Steblay response. (Dkt. 336)

8. On June 11, 2024, Plaintiff filed a motion for leave to file *instanter* excess pages and statement of fact, specifically requesting leave to file his 168-page consolidated response to Defendants' motions for summary judgment and oversized *Daubert* responses. (Dkt. 342.)

9. Defendants filed a response in opposition to Plaintiff's motion and informed the Court that Defendants intended to file a motion to strike Plaintiff's Statement of Disputed Facts. (Dkt. 345.)

10. On June 17, 2024, over Defendants' objection (Dkt. 345), the Court granted Plaintiff's motion for leave to file *instanter*, however, in doing so, the Court stated: "The Court notes that it has discussed the summary judgment briefing process with the parties ad nauseum. The entire point of the Court's process is to avoid motions to strike or inefficient use of the Court's and parties' time. While Plaintiff is free, and in fact encouraged, to bring disputed facts to the Court's attention that warrant a denial of summary judgment, the Court finds it hard to believe that it must sift through almost 500 statements of fact in order to do so. Nevertheless, the Court will rule on what the parties present and also impose any warranted sanctions for failing to follow the Court's clear directives." (Dkt. 347.) The Court sets the following briefing schedule on Defendants' motion to strike: Defendants' motion to strike is due by July 19, 2024; Plaintiff's response is due by August 2, 2024; and Defendants' reply is due by August 9, 2024. (Dkt. 347.)

11. While Defendants are mindful of the Court's ruling granting Plaintiff's motion, and have worked as expeditiously as possible on preparing responsive pleadings, in order to complete well-crafted, researched and supported pleadings in response to Plaintiff's 168-page consolidated response (Dkt. 341) and 541 paragraphs of disputed facts (Dkt. 340), and provide a targeted reply that will assist this Court in deciding the critical issues, Defendants need additional time and respectfully request until August 9, 2024 to file their response pleadings.

12. Plaintiff dedicates approximately 126 pages of his 168-page consolidated response towards the Individual Officer Defendants (Dkt. 341) with the remainder directed in response to the City's arguments. *See generally, id.* Plaintiff's 126-page response is **three times longer** than the Individual Officer Defendants' 42-page memorandum in support of summary judgment. (Dkt. 323.)

13. In addition, while simultaneously preparing a reply to Plaintiff's 168-page consolidated response brief, Defendants will also have to review all 559 paragraphs of Plaintiff's additional statement of disputed facts and cull through the 294 exhibits Plaintiff cites to for evidentiary support—a task that is tremendously labor intensive, challenging, and tedious.

14. Moreover, the City must file a reply in support of its two *Daubert* motions and build in time for the City's internal client review and approval, in addition to defense counsels' other professional obligations. Defense counsel are actively involved in continued summary judgment briefing in *Rios v. Guevara, et. al.*, No. 22-CV-03973 and *Maysonet v. Guevara, et al.*, No. 18-CV-2342.

15. On July 15, 2024, Defense counsel reached out to Plaintiff's counsel via email regarding the substance of this Motion who opposes this motion.

WHEREFORE, Defendants respectfully request an extension of time to file their replies and motion to strike, up to and including August 9, 2024.

Dated: July 15, 2024

Respectfully Submitted,

/s/ Josh M. Engquist

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CERTIFICATE OF SERVICE

I, Josh M. Engquist, certify under penalty of perjury pursuant to 28 U.S.C.A. § 1746 that the foregoing is true and correct, that on **Monday, July 15, 2024**, I electronically filed the foregoing **Defendants' Opposed Motion to Extend Remaining Summary Judgment, Daubert, and Motion to Strike Briefing Schedules** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the attorneys of record on the below Service List.

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